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Via ECF

The Honorable P. Kevin Castel  
United States District Court  
Southern District of New York  
Daniel Patrick Moynihan Courthouse  
500 Pearl Street  
New York, New York 10007

Re: Sullivan v. Barclays PLC et al., No. 13-CV-2811

Dear Judge Castel:

Plaintiffs respectfully submit this letter on behalf of all parties' joint request that the Court grant Plaintiffs leave to file a Fourth Amended Complaint and establish the schedule set forth in the Proposed Stipulation and Order ("Proposed Order") submitted herewith.

The schedule in the proposed order is designed to permit Plaintiffs to receive valuable cooperation from Barclays now that the United States Department of Justice ("DOJ") is no longer seeking to stay that cooperation. It would permit Barclays and Plaintiffs time to engage in the cooperation process, and Plaintiffs time to incorporate such cooperation into a further amended complaint. Please see Proposed Order filed herewith.

Specifically, the proposed schedule provides 90 days for the cooperation process and subsequent filing of the amended complaint on or before September 14, 2015. The schedule then provides that (i) Defendants respond to the Fourth Amended Complaint by November 13, 2015, (ii) Plaintiffs respond by January 13, 2016 to any motions, and (iii) Defendants be permitted until February 12, 2016 to reply. See Proposed Order.<sup>1</sup>

The proposed order also provides that discovery be stayed pending resolution of any motions to dismiss the Fourth Amended Complaint with the following exception. If any

<sup>1</sup> Several of the Defendants in this action have entered into similar stipulations in actions to which they are also parties relating to Pound Sterling LIBOR and Swiss Franc LIBOR pending before Judge Broderick and Judge Stein of this Court, respectively. See, e.g., Stipulation and Scheduling Order, *Sonterra Capital Master Fund Ltd. v. Barclays Bank plc, et al.*, No. 15-cv-3538 (S.D.N.Y. May 26, 2015) (Broderick, J.), Dkt. No. 4; Revised Scheduling Order. The Proposed Order also staggers the schedule for filing the Fourth Amended Complaint and briefing motions to dismiss in this action with the schedules in the Pound Sterling LIBOR and Swiss Franc LIBOR actions.

MEMO ENDORSED

The proposed stipulation and order is not approved. A time out to figure out whether plaintiff has a claim, what it is and against whom is not acceptable. The proposal would have a fully briefed motion to dismiss 7 months and 24 days from now. Plaintiffs should consider dismissing without prejudice with a tolling agreement. This action has already been pending for over two years. I realize there has been a lengthy stay at the government's request and that I have authored a Fourth Amended Complaint.

The discovery stay was modified over a month ago.  
6-19-15

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Defendant moves to dismiss for lack of personal jurisdiction pursuant to Fed. R. Civ. P. 12(b)(2), Plaintiffs may seek leave to conduct jurisdictional discovery and additional time to file any opposition in order to conduct such discovery. Defendants reserve the right to oppose any motion by Plaintiffs seeking leave of the Court to conduct jurisdictional discovery.

**Background.** On September 11, 2014, the Court granted the DOJ motion to intervene and stay discovery in this action until May 12, 2015, subject to an application for an extension. This request was intended to avoid potential prejudice to the DOJ's ongoing grand jury investigations and criminal cases relating to the manipulation of interbank offered rates, including the Euro Interbank Offered Rate. The Court also granted Plaintiffs' motion to file a Third Amended Complaint and determined that Plaintiffs "may seek leave of the Court to file a Fourth Amended Complaint, setting forth any new facts to be alleged therein," once the discovery stay is lifted. Lastly, the Court ordered that Defendants "may not move with regard to the operative pleading until 20 days following the lifting of the stay."

On May 12, 2015, the DOJ filed a letter informing the Court that it "does not object to document discovery in this matter beginning immediately." (Dkt. No. 154 at 1.) On May 13, 2015, the Court modified the stay "to permit document discovery effective immediately." (*Id.*) Since that time, Plaintiffs have worked out a schedule with Barclays for the cooperation process, which has begun. Also, all the parties have worked out the proposed schedule.

Plaintiffs respectfully request leave to further amend their complaint for the following two reasons.

*First*, now that the discovery stay has been modified to permit the production of documents, Plaintiffs expect that Defendant Barclays will assist them in further amending their complaint. As previously explained to the Court, Barclays has actively cooperated with Plaintiffs, pursuant to the Antitrust Criminal Penalty Enforcement and Reform Act ("ACPERA") and to the extent permitted by the DOJ, since the inception of this action. Barclays has recently informed Plaintiffs that it has obtained authorization from DOJ to provide Plaintiffs with a substantial proffer of new information regarding its Euribor-related conduct. The DOJ had previously requested that Barclays not provide this information. Plaintiffs understand that this proffer will include valuable information, including specific facts about the banks that engaged in the Euribor-related conduct described in Barclays' regulatory settlements and additional dates on which that conduct occurred.

*Second*, on April 23, 2015, enforcement agencies from the United States, New York, and the United Kingdom publicly disclosed regulatory settlements with Deutsche Bank ("DB") and one of its subsidiaries, DB Group Services (UK) Ltd. ("DB Settlement Documents"). The DB Settlement Documents contain admissions or findings of fact that DB, among other things, attempted to manipulate Euribor submissions on certain occasions, engaged in interbank

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coordination with respect to Euribor submissions on certain occasions, created an environment that facilitated improper communications between traders and the bank's Euribor submitters, routinely adjusted Deutsche Bank's Euribor submissions to benefit the bank's trading positions, and requested that interdealer brokers enter false rates on the market screens the brokers provided to market participants to influence market perception regarding prevailing cash rates. Plaintiffs are investigating, including through questions to Barclays' counsel, the many new facts revealed in the DB Settlement Documents.

Thank you very much.

Respectfully submitted,

/s/ Christopher Lovell

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cc: All Counsel of Record (By Email)